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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,348

10/14/2003

Dale W. Malik

190250-1330

7196

38823

7590

10/15/2008

AT&T Legal Department

Attn: Patent Docketing

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EXAMINER

HUSSAIN, TAUQIR

ART UNIT

PAPER NUMBER

2452

MAIL DATE

DELIVERY MODE

10/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/686,348	<b>Applicant(s)</b> MALIK, DALE W.	
	<b>Examiner</b> TAUQIR HUSSAIN	<b>Art Unit</b> 2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to amendment /reconsideration filed on 06/30/2008, the amendment/reconsideration has been considered. Claims 1, 10-18 and 20 have been amended. Claims 1-22 are pending for examination, the rejection cited as stated below.

### ***Response to Arguments***

2. As to claim 19, Applicant traverses the rejection under 101 in reference to rejection of claims directed to software per se, in light of 112 sixth paragraph. Examiner however respectfully disagrees and argues that, there is no specific paragraph or embodiment refers to means plus function anywhere in the specification therefore, Examiner will treat claim 19 as plan communication system and claim 19 stand rejected under 101 as previously cited in last office action dated: 03/31/2008.

3. Applicant's arguments filed 06/30/2008 have been fully considered but they are not persuasive. In the remarks, applicant argued in substance that:

(a) Prior art "Lee and Fostick" does not teach, prompting the sender to send the instant message to a second recipient and indicate, by the first recipient, that the IM message originated from the sender".

As to point (A), Prior art "Fostick" in paragraph [0042] teaches, "trigger messages" which is equivalent to prompting a user to send the message to second or third user, Each ARM (Automated replay message) is assigned a unique or single "key".

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Optionally a single key can enable triggering of several reply messages and one or more trigger messages can be sent in response to these trigger messages. Fostick also discloses the similar messaging setup in [0008] referring to Patent No. 5, 973, 613, which is incorporated herein by reference, upon receiving a reply message, computer initiates an action based on interpretation of the received reply signal. Therefore, there are endless possibilities to use the teachings of Lee and Fostick to setup up an instant, SMS or other message communication system.

Above argument applies to all other independent claims 5, 10, 14, 19 and 20 as applied to the arguments for claim 1 above.

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35 U.S.C 103(a) not included in this action can be found in a prior Office Action.

5. Claims 1-3, 5, 9-12, 14, 18-20 and 22 are rejected under 35 U.S.C 103(a) as being unpatentable over Lee et al. (Pub. No.: US 2003/0233265 A1), hereinafter "Lee" in view of Fostick et al. (Pub. No.: US 2002/0187794 A1), hereinafter "Fostick".

6. Claims 4, 8, 13 and 17 are rejected under 35 U.S.C 103(a) as being unpatentable over Lee and Fostick in view of Murphy et al. (Pub. No.: US 2007/0274497 A1), hereinafter Murphy.

7. Lee, Fostick and Murphy have been cited as prior arts in the last office action. The teachings that applicable are respectfully maintained and incorporated by reference as set forth in the last office action

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAUQIR HUSSAIN whose telephone number is (571)270-1247. The examiner can normally be reached on 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. H. /  
Examiner, Art Unit 2452

/Kenny S Lin/  
Primary Examiner, Art Unit 2452